



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,224	07/30/2001	David A. Sanders	7024-497PUR115	2859

26813 7590 11/06/2003

MUETING, RAASCH & GEBHARDT, P.A.

P.O. BOX 581415

MINNEAPOLIS, MN 55458

EXAMINER

PARKIN, JEFFREY S

ART UNIT

PAPER NUMBER

1648

DATE MAILED: 11/06/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.



**Office Action Summary**

Application N .

09/762,224

Applicant(s)

SANDERS ET AL.

Examiner

Jeffrey S. Parkin, Ph.D.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 01 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-55 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:



### Unity of Invention

#### 35 U.S.C. § 121

1. This application was filed under 35 U.S.C. § 371 and is subject to unity of invention practice pursuant to 35 U.S.C. § 121 and 372. The regulations governing the claiming of different inventions in one national application are set forth under 37 C.F.R. § 1.141, 1.475, and 1.499. Applicants are reminded that if multiple products, processes of manufacture, or uses are claimed, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto, will be considered as the main invention in the claims (refer to PCT Article 17(3)(a) and § 1.476(c)). The novelty of the instant invention appears to be directed towards pseudotyped retroviruses carrying at least two different togaviral envelope glycoproteins, methods of making said retroviruses, and a single method of use, as clearly set forth in Group I (claims 1-12, 19-29, 33-38, 40-43, 53, and 54) below. However, this application also contains the following inventions or groups of inventions which are not so linked as to form a single inventive concept under PCT Rule 13.1:

- a. Group I, claim(s) 1-12, 19-29, 33-38, 40-43, 53, and 54, drawn to pseudotyped retroviruses carrying at least two different togaviral envelope glycoproteins, methods of making said retroviruses, and a single method of use.
- b. Group II, claim(s) 13-18, 30-32, 39, 44, and 45, drawn to pseudotyped retroviruses carrying a filoviral envelope glycoprotein, methods of making said retroviruses, and a single method of use.
- c. Group III, claim(s) 45-49 and 51, drawn toward an antiviral screening assay employing pseudotyped retroviruses carrying at least two different togaviral envelope glycoproteins.



d. Group IV, claim(s) 50 and 52, drawn toward an antiviral screening assay employing pseudotyped retroviruses carrying a filoviral envelope glycoprotein.

5 The inventions listed as Groups I-IV do not relate to a single inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the inventions of Groups I and II are directed toward structurally and functionally different products.  
10 The inventions of Groups III and IV are unrelated and neither require nor use the same products. Accordingly, they lack a special technical feature. Groups I/II and III/IV, respectively, also fail to display a special technical feature because the products identified in Groups I/II, can be employed in a number of  
15 materially different processes (i.e., the introduction of nucleic acids into a target cell, antiviral screening assays, various immunological methodologies, etc.). Thus, a special technical feature is not present amongst these different groups. In accordance with 37 C.F.R. § 1.499, applicant(s) is/are required, in  
20 response to this action, to elect a single invention to which the claims must be restricted.

2. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined  
25 even though the requirement be traversed. Applicant is also advised that the claims should be amended, where necessary, to reflect the restriction requirement and election.

**37 C.F.R. § 1.48(b)**

30 3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must

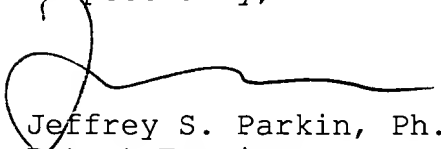


be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

*Correspondence*

5 4. Correspondence related to this application may be submitted to  
Group 1600 by facsimile transmission. The faxing of such papers  
must conform with the notice published in the Official Gazette,  
1096 OG 30 (November 15, 1989). Official communications should be  
10 directed toward the following Group 1600 fax number: (703) 872-  
9306. Any inquiry concerning this communication should be directed  
to Jeffrey S. Parkin, Ph.D., whose telephone number is (703) 308-  
2227. The examiner can normally be reached Monday through Thursday  
from 8:30 AM to 6:00 PM. A message may be left on the examiner's  
15 voice mail service. If attempts to reach the examiner are  
unsuccessful, the examiner's supervisors, Laurie Scheiner or James  
Housel, can be reached at (703) 308-1122 or (703) 308-4027,  
respectively. Any inquiry of a general nature or relating to the  
status of this application should be directed to the Group 1600  
receptionist whose telephone number is (703) 308-0196.

Respectfully,

  
Jeffrey S. Parkin, Ph.D.  
Patent Examiner  
Art Unit 1648

03 November, 2003